

0E168 - X71 Franklin County Ohio Clerk of Courts of the Common Pleas- 2018 May 28 7:50 AM-18CV004403

IN THE COURT OF COMMON PLEAS, FRANKLIN COUNTY, OHIO

BETTY SUE RONEY
8203 Rodebaugh Road
Reynoldsburg, Ohio 43068

:

Plaintiff

:

v.

:

COLUMBIAN LIFE INSURANCE COMPANY
Vestal Parkway East
PO 1381
Binghamton, NY 13902-1381

Case No. _____

:

Defendant.

:

Statutory Agent

CT Corporation System
1300 E. 9th Street, Ste 1010
Cleveland, Ohio 44114

:

COMPLAINT

Plaintiff, Betty Sue Roney ("plaintiff Roney"), for her complaint against defendant
Columbian Life Insurance Company ("defendant Columbian Insurance") alleges as follows:

PARTIES

1. Plaintiff Roney is an individual residing at the above address who at all relevant times was the spouse of Darvin Roney.
2. Defendant Columbian Insurance is a licensed insurance company registered to do business in the state of Ohio.

JURISDICTION AND VENUE

The Court has jurisdiction and venue is proper.

ALLEGATIONS COMMON TO ALL COUNTS

3. On or about April 21, 2017, defendant Columbian Insurance issued a policy for life insurance to non party Darvin Roney, pursuant to policy number 2021562834, which provided for life insurance in the event of death. A full copy of the policy is not currently available.
4. The intended beneficiary of the policy is and at all relevant times was plaintiff Roney, the spouse of Darvin Roney.
5. In early 2018, Darvin Roney passed.
6. Thereafter, plaintiff Roney made demand upon defendant Columbian Insurance for payment under the said policy.
7. On or about February 6, 2018, defendant Columbian Insurance denied coverage, in a letter attached as exhibit A.

**COUNT ONE
(Breach of Contract)**

8. Plaintiff Roney incorporates as if fully rewritten herein each and every allegation above.
9. Plaintiff and Darvin Roney fulfilled all conditions precedent and are otherwise entitled jointly and severally, in their own and derivative capacities to obtain insurance coverage and payment under the said policy.
10. Pursuant to the terms of the said policy, defendant Columbian Insurance was and is obligated to issue coverage and payment to plaintiff.
11. Defendant Columbian Insurance breached and continues to breach the terms of said policy by failing to accept coverage.
12. Plaintiff Roney has been damaged by the conduct of defendant and is entitled to damages including policy limits of the said policy.

**COUNT TWO
(Declaratory Judgment)**

13. Plaintiff Roney incorporates as if fully rewritten herein each and every allegation above.
14. There exists between the parties a dispute as to whether the said policy provides coverage under the facts and circumstances present here.
15. Plaintiff asserts that there is coverage. Defendant asserts that there is no coverage.
16. An adjudication is needed from the court to determine the rights and obligations of the parties.

**COUNT THREE
(Bad Faith)**

17. Plaintiff Roney incorporates as if fully rewritten herein each and every allegation above.
18. Defendant owed plaintiff and Roney a duty of good faith and an obligation not to deny coverage for improper reasons.
19. Defendant failed to inquire sufficiently, failed to advise Roney of mandatory imposed conditions later demanded by defendant, failed to properly conduct due diligence in the application process, failed to utilize a qualified person to interview Roney, failed to give proper guidance on completion of the materials and other defects.
20. Defendant breached its duty and has caused damages to plaintiff, for which defendant is liable.

PRAYER FOR RELIEF

WHEREFORE, plaintiff Roney prays that the Court enter judgment in her favor, award damages in an amount to be determined at trial, declaratory relief, costs, attorneys fees, and such other relief as the court deems appropriate.

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Respectfully submitted,

s/John E. Breen

JOHN E. BREEN (0015142)
BREEN LAW, LLC
7761 Chetwood Close, Ste. 100
Columbus, Ohio 43054
(614) 374-3324
John@breenlegal.com

Counsel for plaintiff

JURY DEMAND

Plaintiff hereby demands a trial by jury.

s/John E. Breen

PRAECIPE FOR SERVICE

To The Clerk:

Please effectuate service via certified mail, return receipt requested.

s/John E. Breen

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COLUMBIAN LIFE INSURANCE COMPANY

Home Office: Chicago, IL

Administrative Service Office:

Vestal Parkway East

P.O. Box 1381, Binghamton, NY 13902-1381

Phone No. (607) 724-2472 Fax No. (607) 722-0328

February 6, 2018

Betty Sue Roney
8203 Rodebaugh Rd
Reynoldsburg, OH 43068

Re: Insured: Darwin Roney
Policy Number: 2021562834

Dear Ms. Roney:

Let me begin this letter by expressing our deepest sympathy to you on the loss of a loved one. It is unfortunate that we must bring you bad news at this time, following the death of your husband. Our evaluation of this contestable claim is complete and we have made a determination regarding benefits.

Darwin Roney signed the application, a copy of which is enclosed, on April 17, 2017 and a full benefit policy was issued on April 21, 2017. An incontestability provision is included in this policy which states we may not contest the Policy after it has been in force during the Insured's lifetime for two (2) years after the Date of Issue. Since the insured's death occurred during the first two years from the date of issue, this claim for benefits falls within the contestable period.

With the proper authorization, we have received and reviewed medical records from Lower Lights Christian Health and Ohio Health Heart and Vascular and have learned that on March 17, 2017, prior to the date of application, Mr. Roney had an abnormal EKG and was advised to have a stress test and Echocardiogram. On April 19, 2017, after the date of application, Mr. Roney had his initial consult with Ohio Health Heart and Vascular regarding his abnormal EKG. Mr. Roney underwent a stress test and Echocardiogram on June 1, 2017 and was diagnosed with Stage IV hypertension and was not compliant with his medication.

At the time of application Mr. Roney was advised to have a diagnostic test which had not been completed. Had we been aware of this information at the time of application, this policy would have been declined in response to Question 5 on Section C of the application. Subsequent results of Mr. Roney's stress test and Echocardiogram would have also resulted in a decline.

Due to the material misrepresentations made in the application for insurance, the claim for benefits is denied and the coverage is rescinded. The enclosed check in the amount of \$1,173.90 represents a refund of all premiums paid to the company for this policy.

We regret the necessity of this action; however, our decision is based on the facts as we know them. If you have any additional information that will materially affect this decision, please submit it to our office and we will review this claim again. This rescission is made without waiver of any rights the Company may now have or later acquire. The Company reserves any and all rights and defenses which it has or may have under or in connection with this policy.

We trust we have adequately explained this matter; however, should you have any questions concerning this, please do not hesitate to contact me at 800-423-9765 ext 5916.

Sincerely,

Brenna Furgeson
Claims Specialist

cc: AGENCY NO: 0000106285
AGENT NO: A515243003

AGENCY NAME:
AGENT NAME: Thomas Bushman

A Member of the Columbian Financial Group

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AUTHORIZATION TO AMEND APPLICATION TO:

☐ COLUMBIAN MUTUAL LIFE INSURANCE COMPANY

HOME OFFICE: BINGHAMTON, NY
ADMINISTRATIVE SERVICE OFFICE: Binghamton, NY 13902-1261

☒ COLUMBIAN LIFE INSURANCE COMPANY

HOME OFFICE: CHICAGO, IL
ADMINISTRATIVE SERVICE OFFICE: Binghamton, NY 13902-1261

Proposed Insured: Darwin Roney

Policy No: 2021562834

It is understood and agreed that the application with respect to this policy for the company checked above is changed and amended as follows:

Part No.

#3: Primary Beneficiary: Satty Sue Roney

The undersigned agrees that the above statements are true and correct to the best of his or her knowledge and belief and shall form a part of the application.

Date: May 7, 2017

[Signature]
Applicant: Darwin Roney

Witness

RETURN ORIGINAL TO COMPANY

INSTRUCTION TO AGENT: The contents of this form must not be changed in any way. If any information is incorrect or incomplete the form and Policy MUST BE RETURNED to the Administrative Service Office in Binghamton, NY with the correct information. DO NOT DELIVER the above policy until this amendment has been properly signed, dated and witnessed and the full first premium paid. A copy of this amendment should be left with the Policy Owner for retention with the policy and the original must be immediately returned to the Administrative Service Office in Binghamton, NY.

Form No. A211